

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF	§	Case No. 1:23-CV-853-DAE
AMERICA,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
GREG ABBOTT, in his capacity	§	
of Governor of the State of Texas,	§	
and THE STATE OF TEXAS,	§	
Defendants.	§	
	§	

ORDER

Before the Court is Plaintiff the United States' Objection (Dkt. # 231) to the Magistrate Judge's Order dated July 25, 2024 (Dkt. # 191). After reviewing the record and considering the nature of the filing, the Court notes that the United States' submission appears procedurally improper for two reasons. First, objections under Federal Rule of Civil Procedure 72(a) are reserved for matters that have been referred to a magistrate judge for Report and Recommendation ("R&R"). However, this case involves a non-dispositive discovery ruling, which falls under the category of appealable matters under 28 U.S.C. § 636(b)(1)(A).

Additionally, the United States has introduced claims of new evidence that was unavailable at the time of the magistrate judge's ruling. Given that this evidence may not have been before the magistrate judge when ruling on the United

States' motion to compel, the Court finds that the appropriate course of action is for the United States to refile its submission as a motion for reconsideration, rather than proceeding with this objection.

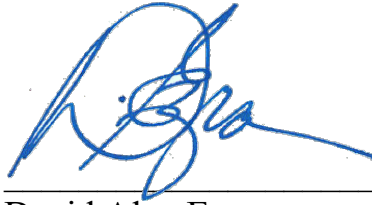
Therefore, the Court **ORDERS** the following:

1. The United States' Objection (Dkt. # 231) is hereby **TERMINATED** in light of this order.
2. The United States may refile its submission as a Motion for Reconsideration, addressing the new evidence it claims was not available at the time of the magistrate judge's order, within 3 days from the date of this order.
3. Should the United States file a Motion for Reconsideration, this Court will refer the matter back to U.S. Magistrate Judge Dustin M. Howell to review the motion in light of the newly presented evidence.

The Court recognizes the upcoming trial date and understands the need for prompt resolution of this discovery matter. The Court encourages the parties to act expeditiously in refile and briefing the motion, with the goal of resolving this issue without delaying the trial schedule.

IT IS SO ORDERED.

SIGNED: Austin, Texas, October 16, 2024.

A handwritten signature in blue ink, appearing to read 'D. Ezra', is positioned above a horizontal line.

David Alan Ezra
Senior United States District Judge